

June 28, 2011



By ECFS

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
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Washington, D.C. 20554

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Re: **EX PARTE** -- *Unbundled Network Elements*, WC Docket No. 04-313;
*Review of the Section 251 Unbundling Obligations of Incumbent Local
Exchange Carriers*, CC Docket No. 01-338

Dear Ms. Dortch:

CenturyLink submits this letter to provide responses to questions Federal Communications Commission staff raised during a meeting with the company's representatives, Tim Goodwin, Jeb Benedict, and John Devaney (Perkins Coie) on June 7, 2011 to discuss the amicus brief the Commission is preparing in *Qwest Corp. v. Colorado PUC*, Nos. 10-11187 & 10-1212 (10th Cir.).

In response to the FCC's question concerning how Qwest Corporation reported UNE-P to the FCC, there are two distinct UNE-P "platform" products. First, Qwest still has in service a very small number of the UNE-P services, as UNE-P was defined before the *Triennial Review Remand Order* ("TRRO"), 20 FCC Rcd 2533 (2005), *aff'd*, *Covad Commc'ns v. FCC*, 450 F.3d 528 (D.C. Cir. 2006). This UNE-P service is comprised of a combination of local switching, transport, and a loop. Qwest has reported the small number of these UNE-P services that still exist on an aggregate basis -- but it has never distinguished between residential and business.¹

Second, after the TRRO, Qwest had replaced its original UNE-P service with products known as Qwest Platform Plus ("QPP") and Qwest Local Service Platform ("QLSP"), which also provide local switching, local transport and a loop. Unlike with UNE loops offered on a stand-alone basis, Qwest is able to determine whether these services are used for business or residential customers, because these are switched services that include uniform service ordering codes ("USOCs") showing residential or business use. Qwest's reporting of QPP and QLSP therefore reflects the business vs. residential distinction, consistent with the following direction from the FCC in ¶ 105 of the TRRO:

The BOC wire center data that we analyze in this Order is based on ARMIS 43-08 business lines, plus business UNE-P, plus UNE-loops. We adopt this definition of business lines because it fairly represents the business opportunities in a wire center, including business opportunities already being captured by competing carriers through the use of UNEs. (Emphasis supplied, footnotes omitted.)

¹ Qwest in some instances estimated residential and business quantities using listings data.

Thus, Qwest appropriately included only business QPP and QLSP lines in its *TRRO* business line counts.

Another question asked in our meeting was whether we were aware of any instance in which the Commission has used the term “business line” in the manner used in 47 U.S.C. § 51.5, which defines the term in the rule's first sentence and describes the line-counting method in the second sentence. We have not found any other Commission rules or orders directly on point. However, we do note that in paragraph 105, footnote 304, of the *TRRO*, the Commission supports its definition of “business line” by citing a portion of an affidavit from a Bellsouth witness. A copy of the affidavit is attached to this letter. In the portion of the affidavit the Commission cites (*see* pp. 2-3), the Bellsouth witness explains that “it became obvious that grouping of central offices by the number of business lines served by each office provided a compelling basis for identifying markets where competition was economically possible.” The witness explains further that the “[t]he number of business lines was derived by adding the business and coin line accounts from the December 2003 43-08 ARMIS Report to the UNE loop and UNE-P business line counts as of December 2003.” As these statements show, the Bellsouth definition of “business lines” that the Commission relied upon included all UNE loops, which supports the conclusion that the Commission’s definition of “business lines” also includes all UNE loops.

Finally, there is no basis for Cbeyond's claim in its *ex parte* filing of June 24, 2011, that Qwest has been able to determine if a CLEC is using a UNE loop to serve a business customer or to provide a switched service. The Qwest *ex parte* filing from 2005 that Cbeyond relies upon neither states nor implies that the carrier can make such determinations and, in fact, does not even address the subject. Moreover, when Qwest identified the nonimpaired wire centers listed in the 2005 *ex parte* filing, it included all UNE loops in the business line counts, which is consistent with the FCC's directive that line counts must be based upon objective, verifiable data.

Pursuant to Section 1.1206(b) of the Commission’s rules, a copy of this notice is being filed in each of the above-referenced dockets.

Sincerely,



John E. Benedict

attachment

cc: Austin Schlick
Laurel Bergold
Peter Karanjia
Jacob Lewis
Richard Welch
Lisa Gelb
Melissa Kinkel
Deena Shetler
Tim Stelzig